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Governor

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Commission**

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Jack Duffey
David "Hossie" Sanchez
Frank Tabet Jr.

General Manager
Craig Swagerty

P.O. Box 8546
Albuquerque, NM 87198
PHONE 505-222-9700
FAX 505-266-7784

6WQ-F

MAR 15 2010

RECEIVED

March 8, 2010

Claudia V. Hosch, Associate Director
Water Quality Protection Division
United States Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

CERTIFIED MAIL: Return Receipt Requested (7008 1830 0000 3744 1679)

**RE: Clean Water Act, Section 308 Request for Information Regarding
Municipal Separate Storm Sewer System and Permit Application**

Dear Ms. Hosch:

Please see the attached response with supporting documentation from Mr. Raymond Hensley, President, of The Hensley Engineering Group.

The Hensley Engineering Group has been contracted by the New Mexico State Fair Commission (also known as EXPO New Mexico as a venue name) to provide support and engineering service to aide and advise in meetings and negotiations with third parties relative to issues derived from EPA and NMED Standards or other drainage issues for the fairgrounds.

Please feel free to contact Susan Rebman at (505) 222-9743 or susan.rebman@state.nm.us or myself at (505) 222-9714 if you have any additional questions or concerns.

Sincerely,

Craig Swagerty, General Manager
New Mexico State Fair Commission



THE HENSLEY ENGINEERING GROUP

February 17, 2010

Mr. Craig Swagerty
General Manager of EXPO New Mexico
P.O. Box 8546
Albuquerque, New Mexico 87198

RE: Clean Water Act, Section 308 Request for Information Regarding Municipal Separate Storm Sewer System and Permit Application

Dear Mr. Swagerty:

As you requested, I have reviewed the letter from the United States Environmental Protection Agency, Region 6, received December 22, 2009. In addition I have reviewed the storm drainage for the campus of EXPO New Mexico as it relates to the City of Albuquerque storm water systems.

I find the initial assumption of the EPA's letter erroneous:

" . . . discharges of municipal storm water from the New Mexico State Fairgrounds are not authorized by a Municipal Separate Storm Sewer System (MS4) permit . . . "

First the official designation for the legal entity of the State Fair Grounds is the New Mexico State Fair Commission. While New Mexico State Fair Commission represents state property and is excluded from the municipal boundaries of the City of Albuquerque, it has been part of the MS4 partnership between the City of Albuquerque and Bernalillo County. As well as being an integral part of the Albuquerque Metropolitan Arroyo and Flood Control Authority (AMAFCA).

First the property is within the County of Bernalillo a partner in the large City/County MS4. Secondly, the City of Albuquerque Storm Drainage systems run through and integrate with storm water effluent generated by New Mexico State Fair Commission. The City of Albuquerque owns and maintains all of the storm water drainage infrastructure in and adjacent to New Mexico State Fair Commission.

Please see the Storm Utility Plan and Easement Plan attached. The utility plan indicates significant drainage structures and systems that reside on New Mexico State Fair Commission property. This systems service both New Mexico State Fair Commission and approximately one square mile of the City of Albuquerque east, northeast and southeast of the New Mexico State Fair Commission campus. Surge and drainage ponds at the northwest corner of the campus are used as surge ponds for the benefit and use of the City of Albuquerque, San Pedro Blvd. Storm water drainage west of the campus.

The easement plan clearly indicates that all storm drainage pipelines, ponds and infrastructure belong to, and shall be maintained by the City of Albuquerque. Please note the wording of the easement agreement also attached.

In short, the actions, design and construction of storm drainage system on New Mexico State Fair Commission property and adjacent to New Mexico State Fair Commission property have incorporated New Mexico State Fair Commission into the City, County and AMAFCA MS4 partnership.

The EPA's letter asked that we address four specific points.

"1. The New Mexico State Fairgrounds is located within the City of Albuquerque and the Albuquerque Urbanized Area, but is not annexed into the corporate boundary of the city; therefore, the storm sewer system serving the Fairgrounds is a regulated small MS4. Please confirm whether the Fairgrounds is or is not legally excluded from the corporate boundary of the city, as this determines whether the Fairgrounds would be a small MS4 as defined at 40 CFR 122.26(b)(16) or part of a large MS4 as defined at 40 CFR 122.26(b)(4)."

ANSWER:

The New Mexico State Fair Commission property is excluded from the corporate boundary of the City of Albuquerque. However, the assumption that state property, whether or not State Property is annexed into the corporate boundary of the city, does not determine whether or not a small MS4 is required. There are unincorporated parts of Bernalillo, State and Federal Parks, Bureau of Land Management, and the military bases that are not part of the Corporate Boundary of the City but are part of the larger MS4 to which the City and County are partners.

New Mexico State Fair Commission is not part of the City corporate boundary. It is part of 40 CFR 122.26(b)(4), ie. City of Albuquerque's MS4.

"2. EXPO New Mexico owns and/or operates a system of municipal separate stormwater conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) serving the New Mexico State Fairgrounds. If owned by EXPO New Mexico, but operated by another entity, please provide the name and contact information for that entity. Note that a municipal separate storm sewer system, as defined at 40 CFR 122.26(b)(8) includes those owned or operated by a State or other public body created by or pursuant to State law."

ANSWER:

Like any development property, New Mexico State Fair Commission owns paving, curbs, gutters and other surface site systems for conveyance of stormwater to a storm water drainage system, owned and operated by another governmental entity. However, New Mexico State Fair Commission does not own or maintain a storm water drainage system. The system(s) are on easements granted to the City of Albuquerque and said systems are maintained by contract (easements) by the City of Albuquerque. Please note the easement attached.

The City of Albuquerque owns and operates the storm drainage system. The contact is Roland Penttila, Supervisor, Stormwater Management Section, City of Albuquerque 505-768-2778.

"3. During storms of sufficient intensity or duration, runoff leaving the Fairgrounds would directly, or indirectly via interconnections with City of Albuquerque storm sewers, reach a water of the United States."

ANSWER:

Yes.

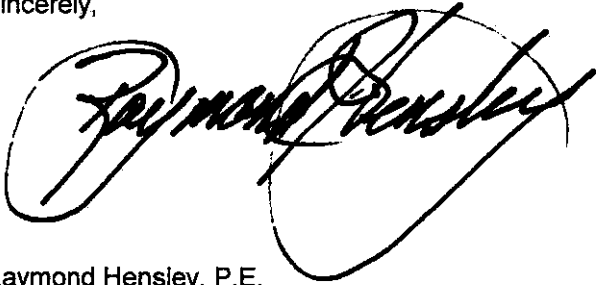
"4. EXPO New Mexico has not applied for a MS4 permit for the New Mexico State Fairgrounds in accordance with 40 CFR 122.26(e)(3) if located within the corporate boundary of the City of Albuquerque or 40 CFR 122.23(e)(9) if not within the corporate boundary of the City of Albuquerque."

ANSWER:

No. In the second part I believe the reference should be 40 CFR 122.26(e)(9) because there is no 1`22.23(e)(9). The pertinent citation is 40 CFR 122.26(e)(3), New Mexico State Fair Commission is part of a municipal MS4 as defined by the City of Albuquerque. Therefore, there is not a necessity for New Mexico State Fair Commission to file either a large or small MS4 permit.

If there are any additional issues or questions regarding these comments, please feel free to contact me by phone or email: 888-1900 Ext. 14, raymond@thegroup.cc.

Sincerely,

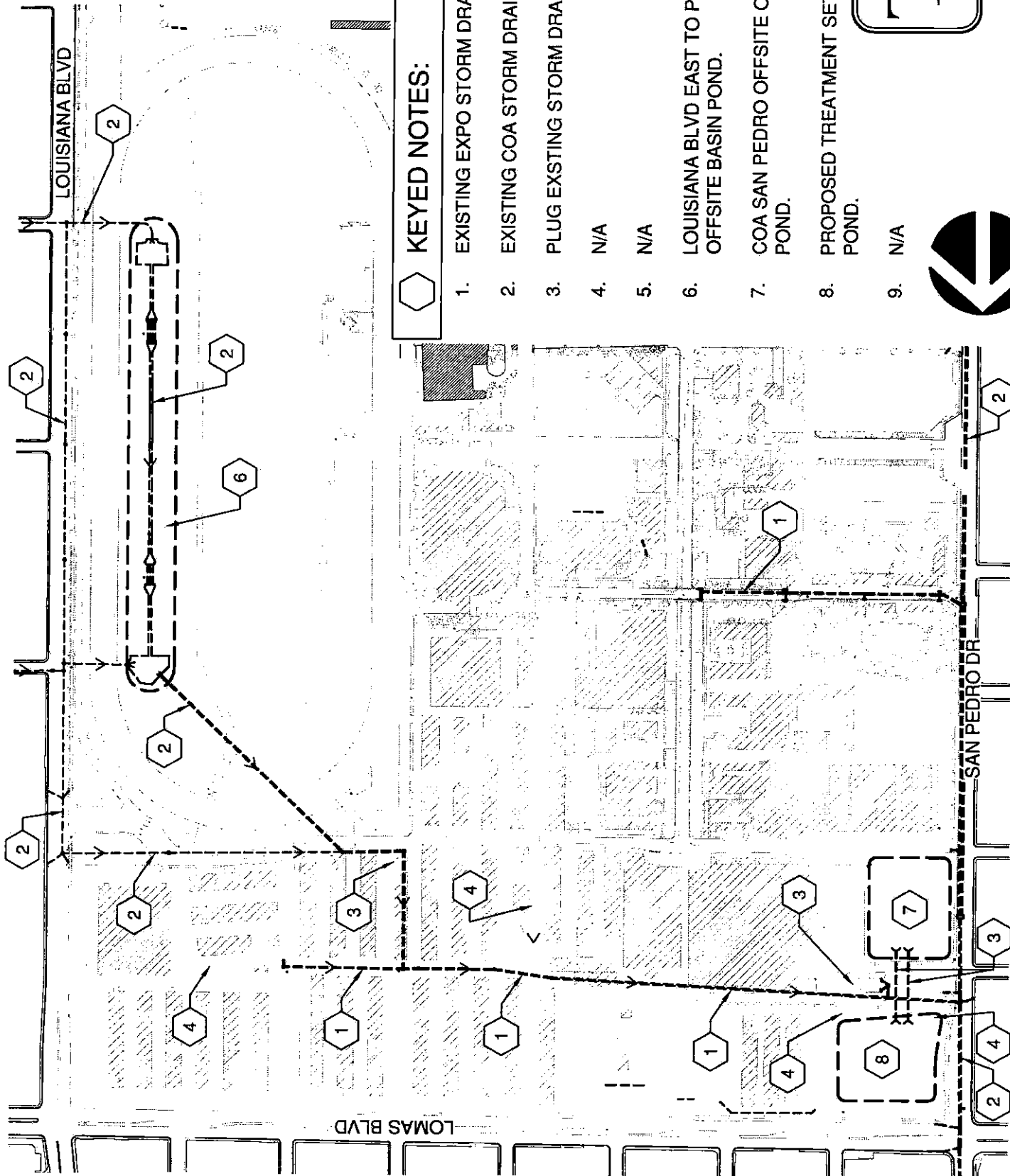
A handwritten signature in black ink, appearing to read "Raymond Hensley", enclosed within a large, loopy circular flourish.

Raymond Hensley, P.E.

President

The Hensley Engineering Group

DOC: (J:\2010 Jobs\10-001 Expo Cafe\correspondence\EPA Response\10-001 EXPO NM - EPA response.odt)



LEGEND

- EXISTING SD
- PROPOSED SD
- POND
- ... PROJ LIMITS

KEYED NOTES:

1. EXISTING EXPO STORM DRAIN PIPE.
2. EXISTING COA STORM DRAIN PIPE.
3. PLUG EXISTING STORM DRAIN PIPE.
4. N/A
5. N/A
6. LOUISIANA BLVD EAST TO PENNSYLVANIA BLVD OFFSITE BASIN POND.
7. COA SAN PEDRO OFFSITE OVERFLOW BASIN POND.
8. PROPOSED TREATMENT SETTLEMENT BASIN POND.
9. N/A



The Hensley Engineering Group
 2340 Menaul Boulevard, NE - Suite 150
 Albuquerque, New Mexico 87107
 Phone: (505) 888-1900 FAX: (505) 888-1906



400'-0" 800'-0"

EXPO NEW MEXICO - STORM DRAINAGE STUDY

SCALE: 1" = 400'

002

GRANT OF EASEMENT

This easement grant is made and executed this 21st day of October, 1982, by and between the New Mexico State Fair Commission, hereinafter called the "Grantor" and the City of Albuquerque, New Mexico, a municipal corporation, hereinafter called the "City".

1. The Grantor is the owner of certain real property within the City of Albuquerque commonly known as the State Fairgrounds.
2. For good and valuable consideration, the receipt of which is hereby acknowledged, Grantor does hereby grant and deliver to the City of Albuquerque a perpetual easement over a portion of Grantor's property for the purpose of permitting the construction and maintenance of a storm water detention facility, including inflow lines and outflow pipe, and the use of such facility for impounding storm waters.
3. The land affected by the grant of this easement and right-of-way is more particularly described in Exhibit "A" attached hereto.
4. The City shall construct a storm water detention facility in the easement area in accordance with the terms of the agreement between Grantor and the City dated October 18, 1982.
5. The City agrees to maintain the detention facility, inflow lines, outlet pipe and necessary fencing.
6. No fence, wall, planting, building or other obstruction may be placed or maintained in the easement area without the written approval of the City Engineer of the City of Albuquerque, and there shall be no alteration of the grades or contours in said easement after the drainage facilities are constructed without the written approval of the City Engineer.

STATE OF NEW MEXICO

OCT 26 3 15 PM '87

60-87-608
TO INY C. CULP
CO. CLERK & REC ORDER
[Signature] DEPUTY

b6 b7C

7. Said easement is intended to be permanent in nature for the uses and purposes recited above to the City, its successors and assigns, until such time as the City releases said easement in writing.

8. The obligation of the Grantor set forth herein shall be binding upon the Grantor, his heirs, and assigns, and the property of the Grantor as described herein and will run with said property until released by the City.

9. The City agrees to defend, indemnify and hold harmless the Grantor and its officials, agents and employees from any and all claims, actions, suits or proceedings of any kind brought against said parties arising from the construction, maintenance or use of the drainage facility provided for herein.

IN WITNESS WHEREOF, the parties have set their hands and seals this 21st day of October, 1982.

NEW MEXICO STATE FAIR COMMISSION,
GRANTOR

By W. R. L. L.

Title: STATE FAIR MANAGER

CITY OF ALBUQUERQUE

Paul A. Hunkler
Chief Administrative Officer

REVIEWED BY THE
LEGAL DEPARTMENT

C. N. E. H.

ACKNOWLEDGMENTS

604

STATE OF NEW MEXICO)
COUNTY OF BERNALILLO) ss.

The foregoing instrument was acknowledged before me
this 21st day of October, 1982,
by W. R. HUMPHRIES
(Name of Grantor)

John L. Hunt
Notary Public

My Commission Expires:
DECEMBER 18, 1984

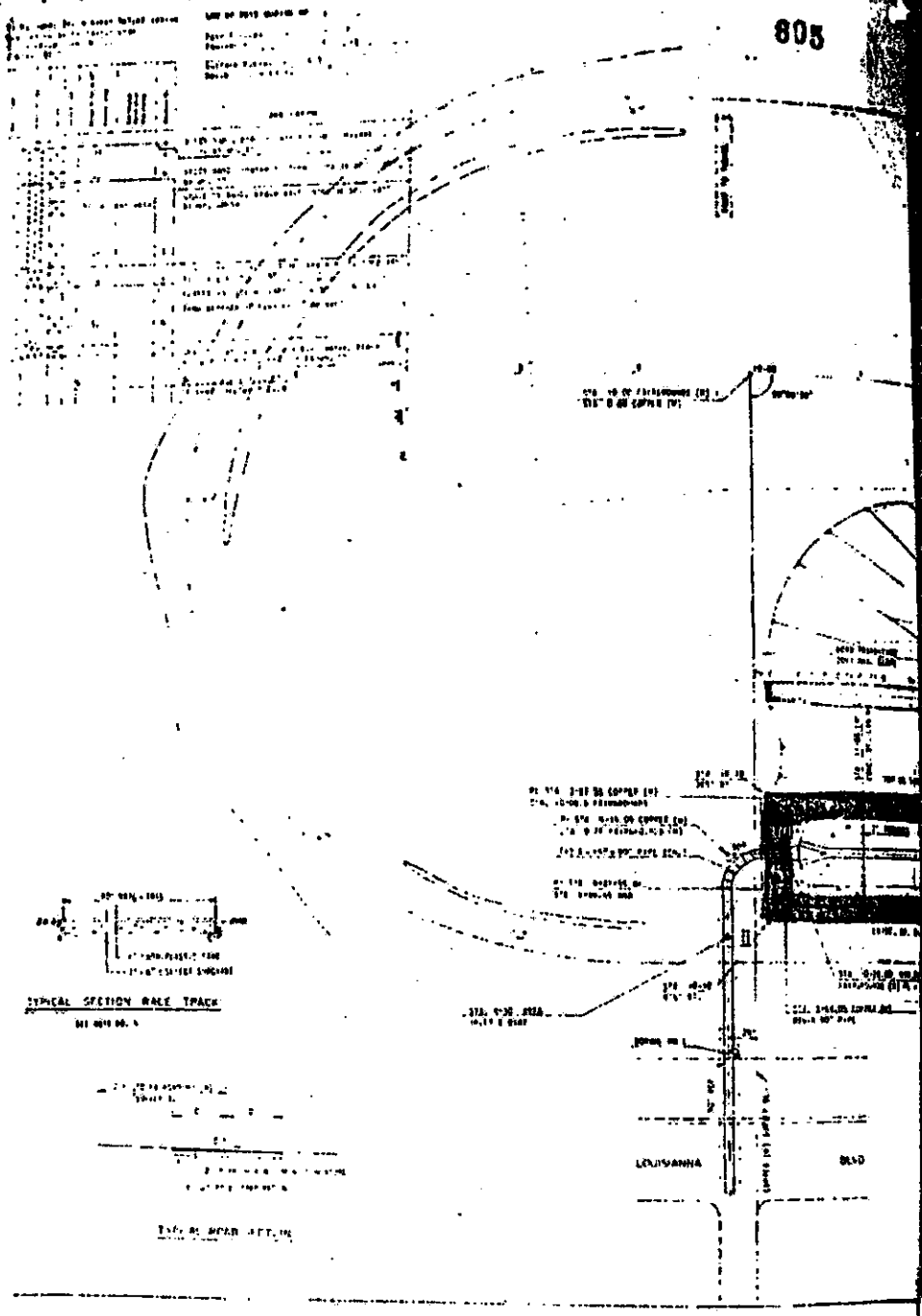
STATE OF NEW MEXICO)
COUNTY OF BERNALILLO) ss.

The foregoing instrument was acknowledged before me this 21st day of
October, 1982, by Frank A. Kleinhenz,
Chief Administrative Officer

John L. Hunt
Notary Public

My Commission Expires:
December 18, 1984

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606

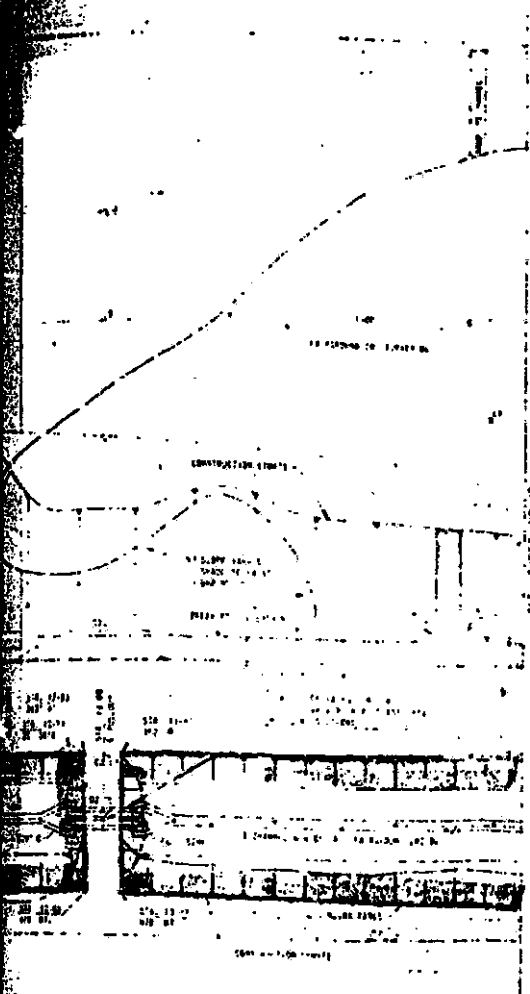
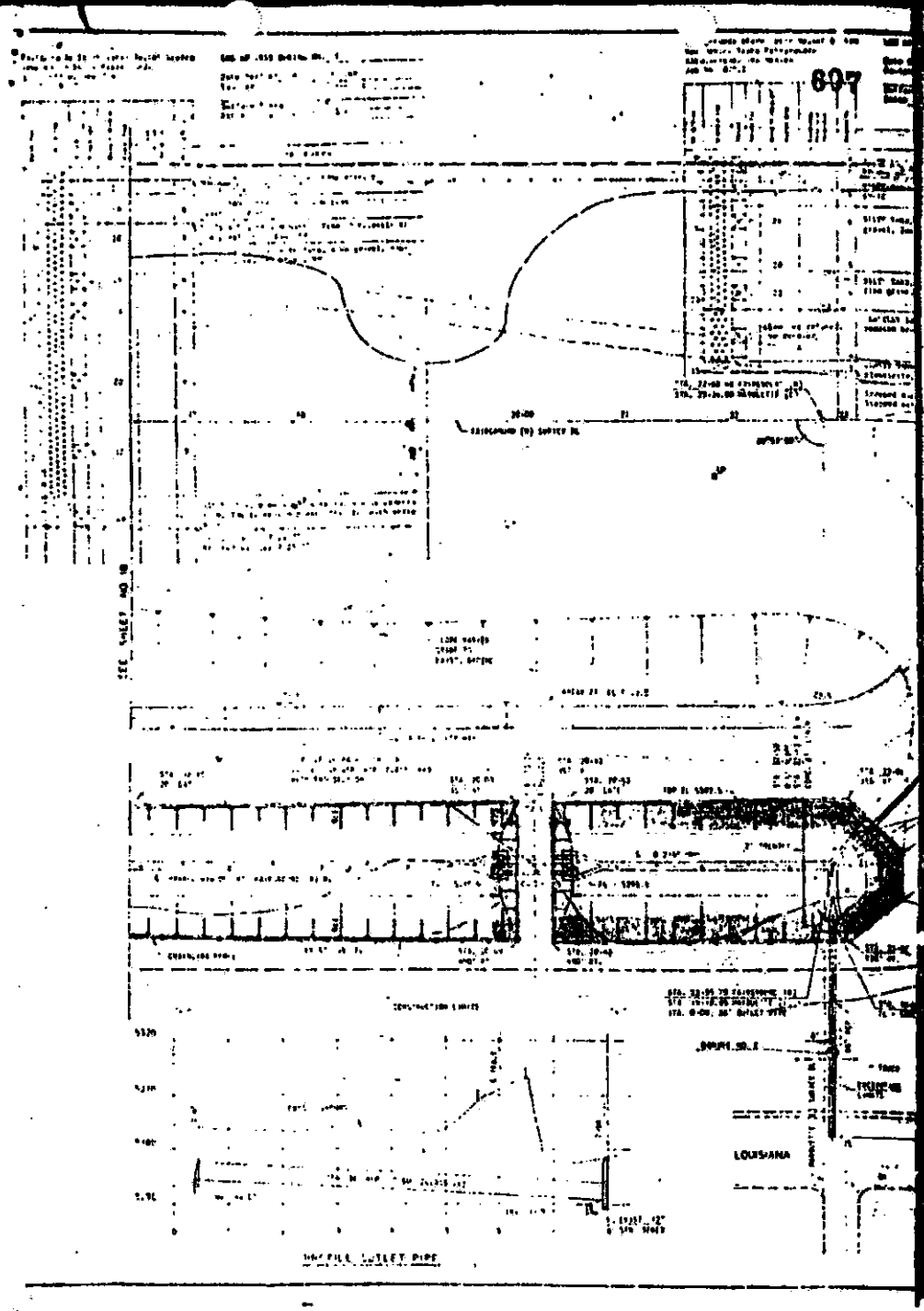


EXHIBIT A

1. THE CHANNEL SHALL BE 10 FEET WIDE AT THE HEAD AND 15 FEET WIDE AT THE TAIL.
2. THE CHANNEL SHALL BE 10 FEET DEEP AT THE HEAD AND 15 FEET DEEP AT THE TAIL.
3. THE CHANNEL SHALL BE 10 FEET LONG AT THE HEAD AND 15 FEET LONG AT THE TAIL.
4. THE CHANNEL SHALL BE 10 FEET WIDE AT THE HEAD AND 15 FEET WIDE AT THE TAIL.

CITY OF ALBUQUERQUE			
MUNICIPAL DEVELOPMENT DEPARTMENT			
FAIRGROUNDS STORM WATER RELIEF SYSTEM PHASE I			
FAIRGROUND CHANNEL PLAN LAYOUT			
DATE	BY	CHECKED	DATE
10/1/00	J. J. J.	J. J. J.	10/1/00
PROJECT NO. 100-100		SHEET NO. 100-100	

1622-61-9



8622-11

TO: CHIEF ADMINISTRATIVE OFFICER

The attached real estate documents are submitted for your approval. We, the undersigned, have reviewed and approved the attached documents for compliance with all applicable management directives, City ordinances, and statutes.

K-18-146 Domingo Rd NE adjacent to Lots 1 thru 10,

LOCATION OF PROPERTY Block 19, Fairgrounds Addition

HOW ACQUIRED By plat

COST OF ACQUIRING 0

SALES PRICE N.A.

APPRAISAL N.A.

SQUARE FOOTAGE 10 x 504 = 30240 sq. ft.

TERMS OF LEASE N.A.

COUNCIL ACTION N.A.

COMMENTS This DC deed to convey vacated R.O.W. to N.M. State Fair as per agreement between City and State Fair. Vacation is by D.R.B. Resolution V-83-32. Doc. attached.

Property Management Dir.
D. Val Vaden
Originating Department

10/5/83
Date

Howard R. Brown
Property Manager

10/5/83
Date

Ch. E. En
Legal Department

10/5/83
Date

Department of Finance & Management

Date

Frank A. Humphrey
Chief Administrative Officer

10-5-83
Date

Real Estate Document Number

815

9 1 2 2 1 1

9

88 88578

QUITCLAIM DEED

B- 863

The City of Albuquerque, a municipal corporation

New Mexico State Fair

for consideration paid, quitclaim

where address is P.O. Box 8546, Albuquerque, NM 87198

the following described real estate in Bernalillo County, New Mexico:

The vacated eastern half of Domingo Road, adjacent to Lots 1-10, Block 19, Fair Grounds Addition, as shown on (SP-83-247), as filed in the Office of the County Clerk on September 28, 1983.

The City hereby reserves the full width of the vacated right of way as an easement for public utilities, whether municipally or privately owned, which are necessary for public use and benefit at the present time or in the future.

The vacation is by Development Review Board Resolution V-83-33 filed in the Office of County Clerk, Bernalillo County, New Mexico, September 28, 1983, Bk. Misc. 51-A, Pg. 482.

CITY OF ALBUQUERQUE
A Municipal Corporation

Frank A. Kleinhens
Frank A. Kleinhens
Chief Administrative

WITNESS *his* hand and seal this *5th* day of *October*, 19*83*.

(Seal)

(Seal)

(Seal)

(Seal)

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO

COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of _____, 19____,
by _____
(Name or Names of Person or Persons Acknowledging)

My commission expires:
(Seal)

Notary Public

ACKNOWLEDGMENT FOR CORPORATION

STATE OF NEW MEXICO

COUNTY OF BERNALILLO

The foregoing instrument was acknowledged before me this *5th* day of *October*, 19*83*,
by *Frank A. Kleinhens, Chief Administrative Officer*
(Name of Officer) *City of Albuquerque*
(Name of Corporation Acknowledging)
a *municipal* corporation, on behalf of said corporation.
(State of Incorporation)

My commission expires:
Jan. 10, 1986
(Seal)

Orlando O. Valdez
Notary Public

FOR RECORDER'S USE ONLY

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
FILED OCT 11 1983

83 OCT -6 AM:04

D195-A 863
RECORDED
COUNTY CLERK'S OFFICE
BERNALILLO COUNTY, N.M.

512261

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